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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,932	08/20/2003	Rangvald Aanestad	13011-1US-3 RM/SC/ip	5381
20988	7590	04/20/2005	EXAMINER	
OGILVY RENAULT 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA			ZIRKER, DANIEL R	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,932

Applicant(s)

AANESTAD, RANGVALD

Examiner

Daniel Zirker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/20/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-21 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, the phrase "high reflectivity" in each of independent claims 1, 13 and 18 is believed to be vague and indefinite with respect to the parameter defined, i.e. what is "high"? In claims 8 and 17 the word "type" is vague and indefinite and the Examiner suggests that it be cancelled.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

4. A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in

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this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kurz. The reference discloses (note particularly the Abstract, the Figure, column 1, lines 39-44, lines 70-73, column 2, lines 5-16, lines 36-47, claims 1, 3, 4 and 17) as is most clearly seen in the Figure and in claim 1 a heat insulating material which can comprise, in order, a carrier sheet of heat resistant plastic such as polyethylene 2 having coated on one surface a vapor deposited aluminum carrier 3 which is a reflecting metal layer and which has on its opposing outer surface a polyester wear resistant coating film 4, which is substantially all applicant's independent claim 1 requires. With respect to the dependent claims 2 and 3, the melting point of polyester and the optical density of polyester are each believed to be inherent in the resulting layers, or at most be an obvious optimization of materials for one of ordinary skill, being guided

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by the desire to obtain a high reflectivity article.

7. Claims 6, 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kurz. The reference is again relied upon substantially as set forth above, with such parameters as the polyester layer thickness and the color of the plastic backing each being well known parameters to one of ordinary skill in the reflective insulation art. With respect to claim 12, the reference also discloses that the backing or carrier sheet can be made of polyethylene.

8. Claims 13-15 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kurz taken in view of either Cain et al. or Burley. The primary reference is again relied upon substantially as set forth above, and with respect to claim 13, Kurz fails to teach a plastic sheet on the side of the insulation layer opposite the plastic backing as required by applicant's chosen claim language. However, each of the secondary references, taken from the heat insulating fabric art discloses (note particularly Cain et al., Figure 1, element 16, and column 2 line 59 - column 3 line 4; Burley, Figure 7, column 5 lines 39-49) the missing element of "a plastic sheet on the side of the insulation layer opposite the plastic backing" (applicant's claim 13). More particularly, note water absorbent nylon layer 16 in Cain et al. next to the aluminum-Mylar film

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laminate such as applicant employs as a water vapor barrier adjacent to the thermal insulating layer taught by Cain et al. and comprising a major part of applicant's claimed article. Also, note that Burley teaches (column 5 lines 39-49) the desirability of bonding fabric scrim 42 which can be comprised of nylon and the like to one surface, i.e. the aluminum coated laminate layer taught by the primary reference. With respect to the dependent claims, such parameters as the reflective color of the backing, the utilization of polyethylene and the utilization of closed cell foam insulation are each believed to be obvious modifications to one of ordinary skill, in the absence of unexpected results.

9. The non-statutory double patenting rejection, whether of the obvious-type or non-obvious-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent.

In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornam*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ 2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 (b) and (c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78 (d).

Effective January 1, 1994, a registered attorney or agent of record may sign a Terminal Disclaimer. A Terminal Disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1-4, 6, 7, 11, 12, and 18-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,248,433. Although the conflicting claims are not identical, they are not patentably distinct from each other because note initially that applicant's claims are open ended, i.e. "comprising" and that the only element of claim 1 not specifically shown (as a means plus function) in claim 1 of the reference is that instead of applicant's claimed "plastic backing" the reference claims "an insulation layer means" from which the applicant's claimed plastic backing is believed to be made obvious therefrom. Again it is noted that with respect to not only claim 1 of the patent but also method claim 8 of the patent the fact that the patent claims disclose a more complicated article or process is not seen to be relevant in view of the fact that all of the claimed elements of applicant's article and method are either disclosed, or rendered obvious, and that applicant's claimed invention is open ended, i.e. comprising.

11. Claims 1-4, 6, 7, 11, 12 and 18-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,632,516. Although the conflicting claims are not

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identical, they are not patentably distinct from each other because in a very similar manner to the prior art double patenting of the obviousness type rejection based upon the -433 patent, the claims of the patent versus applicant's claims essentially again only differ with respect to the limitation of a "plastic sheet" versus an "insulation sheet" with respect to the claimed article, as the dependent claims are also virtually identical to their counterparts. With respect to the method claims 18 and 19 of the application, these nominal method claims are believed to be made obvious by claim 15 of the patent, which clearly discloses the embodiment of applicant's claim 15, and with respect to claim 19, step e) is believed to be clearly made obvious by claims 15 and the accompanying article claim 9 of the -516 patent.

12. Claims 5, 8-10 and 16 are not rejected on the basis of adverse prior art.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (571) 272-1486. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be

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reached on (571) 272-1478. The fax phone number for this Group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dzirker:cdc

April 18, 2005

DANIEL ZIRKER
PRIMARY EXAMINER

A handwritten signature in black ink that reads "Daniel Zinker". The signature is written in a cursive style with a large, stylized 'Z'.